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February 29, 2000

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Via Hand Delivery

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

FEB 29 2000

Re: STB Ex Parte No. 582, *Public Views on Major Rail Consolidations*

Dear Secretary Williams:

Please find enclosed for filing in the above-referenced proceeding an executed original and ten (10) copies of the Comments of E.I. du Pont de Nemours & Company, Inc. Also enclosed is a 3.5-inch diskette containing a WordPerfect 7.0 formatted copy of this filing. An extra copy of the filing is enclosed for stamping and return to our office.

Should you have any questions concerning this filing, please do not hesitate to contact the undersigned. Thank you for your cooperation and assistance in this matter.

Respectfully submitted,

Frederic L. Wood

Frederic L. Wood

Enclosures

BEFORE THE SURFACE TRANSPORTATION BOARD

EX PARTE NO. 582

PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS

STATEMENT

By

E. I. DUPONT DE NEMOURS AND COMPANY

MARCH 8, 2000

My name is Joseph H. Resendes. I am Manager, North American Logistics Operations, for E. I. du Pont de Nemours and Company, based in Wilmington, Delaware. My organization is responsible for all North American logistics services, including transportation safety, procurement of transportation, warehousing services and transportation equipment, rail fleet management, and distribution operations. DuPont applauds the Surface Transportation Board for initiating this important hearing on major rail consolidation, and welcomes the opportunity to participate.

DuPont is a $26 billion diversified chemical and life sciences corporation with over 200 manufacturing sites and almost 100,000 employees worldwide. Rail transportation is critical to DuPont's domestic and export business, and is for many of our chemical products the only safe and practical mode of transportation. Each year, DuPont and its affiliates ship in excess of 70,000 rail shipments, representing over $220 million in railroad freight revenue, in a private fleet of over 9,000 rail cars. More importantly, these shipments are the fundamental basis of DuPont's diverse global supply chains, and directly produce $5.5 billion of North American sales and exports. 75% of this has no other transportation alternative, either because of safety considerations or sheer volume.

At DuPont, we believe that *safe, reliable, and efficient transportation at a competitive cost is critical to our business success*. Indeed, DuPont's principal core value is safety. With a heritage of nearly 200 years committed to the safe manufacture, transport and distribution of its products, DuPont has long been recognized as a leader in safety, and has received numerous awards from the Class One railroads. Our corporate policy states that DuPont will only manufacture, distribute, and transport materials and product which can be safely handled, transported, stored and used by its employees, distributors, and customers. There is little doubt that rail is one of the safer modes of transportation for shipping hazardous goods. The safety of our goods in transportation is so very important to us that it is not unusual for us to disqualify a carrier from carrying our goods if that carrier's safety performance or rate of safety improvement does not satisfy us. Our reputation, indeed our very license to operate is at stake.

DuPont further believes that a *competitive, privately owned and operated, market-based, and financially sound* transportation industry is the best way to achieve this safe, reliable, and efficient transportation system. Effective competition is a key driver to improved service and quality, as has been proven in countless other industries. A free marketplace gives customers choices, and the customer may choose with quality, service and safety having equal weight with cost. History has also shown that competition creates a more profitable and stable marketplace to the benefit of both those providing and those receiving the goods and/or services.

Competition has time and time again been demonstrated to be the most effective driving force for continuous improvement.

With the continued consolidation of the North American Class One railroads, the entire railroad system is at a crossroads. DuPont has a unique perspective on this situation, having been directly involved in the passage of the 1980 Staggers Act. The rail industry in 1980 was by almost any measure in financial trouble. It was extremely fragmented with well over 40 Class One carriers and numerous other regional railroads competing with motor carriers for the nation's freight. Rail service was poor, the infrastructure was in frightful shape and costs related to excess labor, inefficient work practices, and redundant and overlapping tracks were extremely high. Some tracks were in such bad shape that major companies – like DuPont - would not permit their chemical shipments to be transported over them. It is little wonder then that railroad income was severely depressed.

The Staggers Act helped turn this situation around. Railroads abandoned unproductive track. Small, less productive "short line" operations with high cost and low productivity were sold to independent entrepreneurs. The promise of improved service, greater efficiency and lower cost encouraged large rail customers to invest capital in new equipment and enter into long term contracts thereby providing financial stability and predictability to rail balance sheets. Railroads were freed to set prices based on "market forces." Renewed faith by Wall Street brought new money to invest in new, more efficient equipment and to rehabilitate remaining rail infrastructure. Safety improved dramatically and on a sustained basis. Finally, all these changes, added to the consolidation of the nation's rail system into larger and larger Class One railroads with broad economies of scale, brought economic prosperity to the industry.

In short – Staggers worked!

But supporters of Staggers did not envision the sheer magnitude of railroad consolidation that was to occur through mergers over the subsequent 20 years, and did not foresee that over 90% of all U. S. rail traffic would eventually be controlled by only four major territorially dominant railroad systems. This rationalization and concentration of the industry has severely limited, if not altogether removed, competitive choices for most customers.

And from DuPont's perspective, Staggers, in its application, fell short of its potential in at least two other significant ways.

First, it did not improve the competitive balance for most railroad carload customers. Expanded competitive access through terminal and trackage rights or reciprocal switching has proved very difficult to obtain. Many rail users, known as "captive shippers," find themselves isolated and effectively served by only a single rail provider. DuPont itself, despite its size and resources, is captive for 80% of our U. S. rail traffic. The net result has been that the market for railroad services has never been deregulated for many "captive" customers who have no choice of their rail carrier or service level. Shipper choice and competition among railroads, from a given origin to destination are almost non-existent. Because of this, DuPont has been supporting

S. 621 (The Railroad Competition and Service Improvement Act) and its House equivalent H.R. 2784, which would restore what we believe to be the original intent of the Staggers Act.

Second, rail service has continued to be disappointing for most customers, and particularly for carload shippers like DuPont. Promises for service improvement, such as for Interline Service Management, seem ever further away. Today, because of both the concentration of and the regulated framework of the industry, in general, we cannot disqualify carriers who do not perform. We need the ability to select carriers based on performance and to divert business away from carriers who do not perform.

Now we are faced with a new round of mergers that will eventually lead to a North American rail network dominated by two major transcontinental systems. The question is not whether but when, and – most importantly - what needs to be in place to create an equitable competitive economic environment in which railroads and their customers can both prosper. The Canadian National and Burlington Northern Santa Fe merger itself is not the issue…..the need for competition in the industry is. The merger should be considered, as other mergers have been, on its own merits, although with full awareness of an eventual two-railroad end state. It is worth noting that the proposed applicants have taken a progressive and unprecedented step with their recent guarantee of service levels and open gateways. But unfortunately, their proposal falls short of actually improving the competitive options for their customers.

I should take a moment to also commend Paul Tellier, President and CEO of Canadian National, for the progressive Customer Bill of Rights he proposed on August 31, 1998 in Chicago at one the customer forums directed by the Board under Ex Parte 575. (For ready reference, an excerpt from Mr. Tellier's speech is attached as Appendix A.) If the ten points proposed by Mr. Tellier were adopted by others and lived by, they would go far in improving the relationship between railroads and their customers. We would hope to see these points incorporated in the merger application later this month. Unfortunately no other railroad has chosen to endorse this CN proposal.

But the Board is wise in fully considering the downstream effects and possible competitive responses by the other Class One railroads that could follow if this merger is approved. This merger review provides the Board with a historic opportunity to reshape and reinvigorate the future of rail transportation in North America. Today the remaining few U. S. railroads seem caught up an internally focused paradigm of protecting markets, prioritizing operations, and resisting mutual cooperation....while their share of the transportation revenue pie continues to shrink in favor of other modes or sourcing options outside the United States. Robust deregulated competition has cured similar stagnation in the trucking and airline industries, leading to sustained growth and customer value.

DuPont's preferred approach is to condition this latest merger in such a way that the combined new railroad will be a vigorous competitor within the final consolidated North American system. The Chemical Manufacturers Association has proposed such a condition, which would allow all railroad customers to have a choice of service providers. Customers could choose to do this though (1) reciprocal switching, (2) trackage rights on a competing railroad, (3) BNSF-CN haulage, (4) quotation of a segment rate to an interchange, or (5) any other mutually acceptable means. This condition would seem to be an excellent solution to providing competition and innovation within a two-railroad system, and if adopted should apply to all future mergers as well. Canadian National and Canadian Pacific both seem to thrive safely and financially in such an environment in Canada. Similarly, our U. S. Class One railroads all do very well - and provide a higher level of service - in those areas where real competition exists, such as intermodal and Powder River Basin coal.

As another alternative, the Board may choose to use its influence to bring railroads and their customers together to dialogue and jointly develop a long-range solution for the industry. This would be consistent with the Board's often-stated preference for private solutions. Such a solution would hopefully include expanded competition and value for rail customers, and new market opportunities and growth for railroads. This dialogue should include knowledgeable executives from railroads, all major market sectors, and other interested groups must seek common ground and result in a committed future environment all can live with. It would be critical that such a dialogue has clear expectations, accountability, and deadlines in advance so that individual interests do not simply use it to delay. DuPont, for our part, prefers private industry solutions that minimize the need for government involvement, as opposed to solutions imposed by legislation or regulation. However, DuPont believes success in such a dialogue will only be achieved if the parties involved are willing to depart from long-held views.

A third alternative would be for the Board to seek legislation to expand its authority to create competition. DuPont acknowledges that the Board does not believe it currently has the statutory authority to apply remedies that increase competition where it does not already exist, but may be necessary to level the playing field as we move closer to a final likely two-railroad result. Thus, DuPont further suggests that the Board identify and request of Congress the specific legislative changes that the Board deems necessary to address this changing railroad environment.

Safe, reliable and predictable rail transport at a competitive price is essential if DuPont and other domestic manufacturers and producers are to most effectively serve their U.S. and global customer bases. It is our belief that the best way to achieve these goals in the rail industry is through the unleashing, to the maximum extent possible, of competitive market forces. We fully recognize that to achieve this may not be as simple as to just state that it is desirable.

A rail system left to operate with little in-kind competition is not in the best interest of either the customers or the providers - even with government oversight. Therefore, effective competition (or its functional equivalent) must be created. To do any less would be to risk severe economic consequences and accept an unfulfilled great service potential for the country's rail transportation system.

Today's competitive global marketplace requires all elements of a supply chain to work together to produce the highest quality products demanded by the customer at the lowest practical cost. Manufacturers, suppliers, transportation providers and the government must each fulfill their obligations to ensure that this nation's citizens continue to enjoy the highest standard of living of any country in the world. While the specter of competition may be frightening to those who have enjoyed the luxury of not competing, in the end, however, I know we all recognize that in-kind competition will ultimately give us a safer and more robust rail industry and a healthier U.S. economy. DuPont, for its part, welcomes the opportunity afforded it by the

Board to contribute to this process. We look forward to an on-going role in achieving the proper balance of competition in the rail industry.

Joseph H. Resendes
Manager, North American Logistics Operations
E. I. DuPont de Nemours and Company
DuPont Logistics, D-3076
1007 Market Street
Wilmington, DE 19898

APPENDIX A:

Excerpt from speech by Paul M. Tellier, president and chief executive officer, Canadian National Railway Company, at the Shipper Outreach Symposium of the Association of American Railroads, Chicago, Illinois, August 31, 1998.

A customer bill of rights

"You have told us that railroad service is not what it should be. I prefer to believe it is not what it can be. My Class 1 colleagues all understand this, and I believe you will see all of us working to make our service what it can be.

Today I want to give you my vision of where those changes should lead - ten points that form a customer bill of rights for the rail industry. Here's what shippers have a right to expect.

1. **Customer focus.** The rail industry is a service industry. We exist to serve you.
2. **Quality of service.** Quality based on a clear understanding by both parties of what was asked by shippers and what was promised by railroads.
3. **Performance standards.** Our performance should be clearly measurable in terms we both agree on.
4. **Consistent delivery.** We'll deliver your goods in agreed-upon timeframes, based on priorities you help us to set.
5. **Accountability.** Railroads must be accountable for service commitments.
6. **Transparency.** If we miss on a commitment, we must tell you why and, more important, tell you how we'll get your delivery back on schedule.
7. **Competitive pricing.** Pricing that will keep you competitive while enabling us, the railroads, to earn our cost of capital.

8. **Quality equipment.** Access to equipment that meets your needs and provides us with adequate returns.
9. **Resourcefulness.** We must do more than respond to your transportation needs. You should expect our service to include innovative approaches to helping you tap new markets.
10. **Partnership.** A relationship based on true partnership - one where we both understand each other's requirements and constraints.

My vision for the railroad industry, succinctly put, is this: The product we sell is service. And we must provide it with no secrets, no surprises, and no excuses.

That's what we should be striving for as an industry. Help us make it